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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,918	08/27/2003	Katsuhiko Miya	P/1250-258	5086

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

EXAMINER

MACARTHUR, SYLVIA

ART UNIT	PAPER NUMBER
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1792

MAIL DATE	DELIVERY MODE
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01/22/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/648,918		MIYA ET AL.	
	Examiner		Art Unit	
	Sylvia R. MacArthur		1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/6/2009 have been fully considered but they are not persuasive. Applicant argues that neither prior art JP 7-22361 nor JP 2000-156363 features off center nozzles. It is noted that claim 19 refers to the inner gas discharge port being arranged eccentric to a center of the substrate and being off center relative to the inner shaft. Note that the substrate or workpiece worked upon is not part of the apparatus and thus the reference to its center is seen as a matter of an intended use as the apparatus and the limitations that recite the structure of the apparatus must refer to components of the apparatus and not parts such as the workpiece which are not part of the apparatus.
2. Additionally, see Figure 10 of JP 7-22361 depict ports 55 (outer gas port) ports supplied by paths 30 and 8, though these ports are coaxial and formed within the inner shaft, note that the port of 30 is off-center while the port of 8 is centered.
3. Likewise, in the prior art of JP 2000-156363 see Fig. 1-3 wherein outer gas ports 28 are featured, and inner gas port are supplied from gas supply 28 and a process solution port is supplied from 20. Note the inner gas supply port is depicted as being off centered of the inner shaft. Applicant argues on page 6 the second full paragraph that the outer gas ports are not annular. However, the term "annular" is interpreted as ring like or having ring shape, note that discrete ports 28 do form a ring around the ports of shaft 14 since the ports are fixed that are interpreted as continuously enclosing. Based upon the argument the examiner believes that applicant wants to recite or claim that the outer port have a continuous annular or continuous ring shape so as not to be interpreted that the ports can be discreet.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 19 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaida Hiromasa et al (JP 7-22361). Hiromasa et al teaches a coater having a substrate holding rotating element 2, atmosphere blocking plate wherein the blocking plate comprises a tubular support cylinder with a co-axial inner shaft, see Figures, especially Fig. 10, see Figure 10 of JP 7-22361 depict ports 55 (outer gas port) ports supplied by paths 30 and 8, though these ports are coaxial and formed within the inner shaft, note that the port of 30 is off-center while the port of 8 is centered. It is noted that claim 19 refers to the inner gas discharge port being arranged eccentric to a center of the substrate and being off center relative to the inner shaft. Note that the substrate or workpiece worked upon is not part of the apparatus and thus the reference to its center is seen as a matter of an intended use as the apparatus and the limitations that recite the structure of the apparatus must refer to components of the apparatus and not parts such as the workpiece which are not part of the apparatus.

6. Claims 19 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiyose Hiromi (JP 2000-156363).

7. Hiromi teaches a support member 6 (substrate holding/rotating element), an atmosphere blocking plate 12 with nozzles (ports) 28 and a coaxial inner shaft and support cylinder.

According to Fig. 1-3 wherein outer gas ports 28 are featured, an inner gas port are supplied

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from gas supply 28 and a process solution port is supplied from 20. Note the inner gas supply port is depicted as being off centered of the inner shaft. Applicant argues on page 6 the second full paragraph that the outer gas ports are not annular. However, the term "annular" is interpreted as ring like or having ring shape, note that discrete ports 28 do form a ring around the ports of shaft 14 since the ports are fixed that are interpreted as continuously enclosing. Based upon the argument the examiner believes that applicant wants to recite or claim that the outer port has a continuous annular or continuous ring shape so as not to be interpreted that the ports can be discreet.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sylvia R. MacArthur whose telephone number is 571-272-1438. The examiner can normally be reached on M-Th during the hours of 8 a.m. and 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on 571-272-1435. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 16, 2010

/Sylvia R MacArthur/
Primary Examiner, Art Unit 1792